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*Attorneys for Defendants and Counterclaim-
Plaintiffs EMC Corporation and VMware, Inc.*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

PERSONALWEB TECHNOLOGIES, LLC
and LEVEL 3 COMMUNICATIONS, LLC.

Plaintiffs,

V.

EMC CORPORATION and VMWARE, INC.,
Defendants.

Case No. 5:13-cv-01358-EJD

**DECLARATION OF MARISSA A. LALLI
IN SUPPORT OF DEFENDANTS'
MOTION FOR ATTORNEY FEES
UNDER 35 U.S.C. § 285**

1 I, Marissa A. Lalli, declare as follows:

2 1. I am an attorney with the firm of Wilmer Cutler Pickering Hale and Dorr LLP, counsel
3 for Defendants EMC Corporation and VMware, Inc. in the above-captioned matter. I am an attorney
4 licensed to practice in the Commonwealth of Massachusetts (No. 681516) and the State of New York
5 (No. 5024393), and I have been admitted to practice before this Court *pro hac vice*. I am over the age
6 of eighteen and I have personal knowledge of the facts set forth in this declaration. If called as a
7 witness, I could and would competently testify thereto. I submit this Declaration in support of
8 Defendants' Motion for Attorney Fees Under 35 U.S.C. § 285 in No. 5:13-cv-01358-EJD.

9 2. Attached hereto as **Exhibit A** is a true and correct copy of the Order Granting in Part
10 Defendants' Motion for Sanctions, in *PersonalWeb Techs. LLC et. al. v. Google, Inc. et. al.*, No.
11 5:13-cv-01317, ECF No. 267 (N.D. Cal. Feb. 13, 2014), ECF No. 267.

12 3. Attached hereto as **Exhibit B** is a true and correct copy of a letter from Krish Gupta to
13 Lawrence Hadley, dated May 21, 2014.

14 4. Attached hereto as **Exhibit C** is a true and correct copy of Defendants EMC
15 Corporation's and VMWare, Inc.'s Invalidity Contentions, served in Civil Action No. 6:11-cv-660
16 (E.D. Tex.) on December 14, 2012.

17 5. Attached hereto as **Exhibit D** is a true and correct copy of an article titled "*Altnet to
Pay Kazaa Users for Swapping*," authored by John Borland and published on CNET on June 2, 2003,
18 at 5:58 AM PDT. This article is available publicly at <https://www.cnet.com/news/alt-net-to-pay-kazaa-users-for-swapping/>.

21 6. Attached hereto as **Exhibit E** is a true and correct copy of a press release issued by
22 Brilliant Digital Entertainment and Kinetech, Inc., dated July 6, 2011, titled "Kinetech Inc. Granted 3
23 Additional Patents."

24 7. Attached hereto as **Exhibit F** is a true and correct copy of a press release issued by
25 Kinetech, Inc., dated September 28, 2011, titled "East Texas Tech Company Acquires Foundational
26 Cloud Computing Patents."

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28 **DECLARATION OF MARISSA A. LALLI IN SUPPORT OF
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1 8. Attached hereto as **Exhibit G** is a true and correct copy of Assignment of Issued U.S.
2 Patents from Kinetech, Inc. to PersonalWeb Technologies, LLC, dated July 5, 2011, recorded with
3 the U.S. Patent and Trademark Office at Reel-Frame No. 026843/0407.

4 9. Attached hereto as **Exhibit H** is a true and correct copy of a press release issued by
5 PersonalWeb, dated December 6, 2011, titled “PersonalWeb Launches StudyPods.”

6 10. Attached hereto as **Exhibit I** is a true and correct copy of the “Litigation History”
7 page on PersonalWeb’s website, available at <http://www.personalweb.com/litigationhistory.html> (last
8 accessed on March 11, 2020).

9 11. Attached hereto as **Exhibit J** is a true and correct copy of the “About” page on
10 PersonalWeb’s website, as of February 26, 2012. This copy was collected by the Internet Archive
11 and is available at <https://web.archive.org/web/20120226003958/http://www.personalweb.com/About.html>.

13 12. Attached hereto as **Exhibit K** is a true and correct copy of an archived copy the
14 “Products” page on PersonalWeb’s website’s “Products” page, as of February 28, 2012. This copy
15 was collected by the Internet Archive and is available at <https://web.archive.org/web/20120228180430/http://www.personalweb.com/Products.html>.

17 13. Attached hereto as **Exhibit L** is a true and correct copy of excerpts of the transcript
18 from the deposition of Michael Weiss (Volume II), taken on December 19, 2013. PersonalWeb has
19 designated this transcript as containing confidential information under the applicable protective order,
20 and Defendants are therefore moving to file this exhibit under seal.

21 14. Attached hereto as **Exhibit M** is a true and correct copy of excerpts of the transcript
22 from the deposition of Jacob Michael Drew, taken on September 21, 2012. PersonalWeb has
23 designated this transcript as containing confidential information under the applicable protective order,
24 and Defendants are therefore moving to file this exhibit under seal.

25 15. Attached hereto as **Exhibit N** is a true and correct copy of Plaintiff PersonalWeb’s
26 Disclosure of Asserted Claims and Infringement Contentions, served in Civil Action No. 6:11-cv-660
27 (E.D. Tex.) on July 2, 2012.

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1 16. Attached hereto as **Exhibit O** is a true and correct copy of a press release issued by
2 PersonalWeb, dated December 8, 2011, titled “PersonalWeb Files Patent Infringement Suits.” This
3 press release is available publicly at http://www.personalweb.com/m/media/20111208_PressRelease_PersonalWeb.pdf.

5 17. Attached hereto as **Exhibit P** is a true and correct copy of the PTAB’s Final Written
6 Decision in Case No. IPR2013-00082 (Paper No. 83), dated May 15, 2014, relating to **U.S. Patent
7 No. 5,978,791**.

8 18. Attached hereto as **Exhibit Q** is a true and correct copy of the PTAB’s Final Written
9 Decision in Case No. IPR2013-00083 (Paper No. 80), dated May 15, 2014, relating to **U.S. Patent
10 No. 6,415,280**.

11 19. Attached hereto as **Exhibit R** is a true and correct copy of the PTAB’s Final Written
12 Decision in Case No. IPR2013-00084 (Paper No. 64), dated May 15, 2014, relating to **U.S. Patent
13 No. 7,945,544**.

14 20. Attached hereto as **Exhibit S** is a true and correct copy of the PTAB’s Final Written
15 Decision in Case No. IPR2013-00085 (Paper No. 73), dated May 15, 2014, relating to **U.S. Patent
16 No. 7,945,539**.

17 21. Attached hereto as **Exhibit T** is a true and correct copy of the PTAB’s Final Written
18 Decision in Case No. IPR2013-00086 (Paper No. 66), dated May 15, 2014, relating to **U.S. Patent
19 No. 7,949,662**.

20 22. Attached hereto as **Exhibit U** is a true and correct copy of the PTAB’s Final Written
21 Decision in Case No. IPR2013-00087 (Paper No. 69), dated May 15, 2014, relating to **U.S. Patent
22 No. 8,001,096**.

23 23. Attached hereto as **Exhibit V** is a true and correct copy of the Patent Trial and
24 Appeals Board’s (“PTAB”) Order on Conduct of Proceeding in Case Nos. IPR2013-00082,
25 -00083, -00084, -00085, -00086, and -00087, dated June 19, 2013.

26 24. Attached hereto as **Exhibit W** is a true and correct copy of the Judgment of the United
27 States Court of Appeals for the Federal Circuit in *PersonalWeb Technologies, LLC v. EMC Corp. &*
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1 *VMware, Inc.*, Nos. 2014-1602, 2014-2013, 2014-1604, 2014-1605, 2014-1606, and 2014-1607, issued
2 on August 10, 2015.

3 25. Attached hereto as **Exhibit X** is a true and correct copy of the U.S. Patent and
4 Trademark Office's Final Rejection in Reexamination No. 90/013,764, dated March 20, 2019.

5 26. Attached hereto as **Exhibit Y** is a true and correct copy of a letter from Cynthia
6 Vreeland to Lawrence Hadley, dated September 14, 2019.

7
8 I declare under penalty of perjury that, to the best of my knowledge and belief, the facts set
9 forth above are true and correct.

10 Executed this 11th day of March, 2020, in Boston, Massachusetts.

11
12 */s/ Marissa A. Lalli*

13 Marissa A. Lalli
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